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April 2, 2008

MEMO

Via Facsimile and Regular Mail

Honorable Charles L. Brieant
 Unite State District Court Southern Division
 300 Quarropas Street
 White Plains, New York 10601

Re: Michelle Castellucio v. Ian M. Rubins, M.D.

Dear Honorable Justice Brieant:

As you know, my office represents the plaintiff, Michelle Castellucio, in the above-entitled action and as such I am writing to inform the Court of the status of this matter and concomitantly, our intentions.

My office filed the above referenced on or about January 15, 2008 based on allegations of medical malpractice by the defendant, Ian M. Rubins. However, after filing the action, but prior to actually serving the defendant, the defendant was found dead by an apparent overdose. Hence, jurisdiction has not been obtained over the defendant as of yet. Our intention, with the Court's approval is to amend the complaint to include the "estate of Dr. Ian M. Rubins" as the defendant and serve the executor and/or executrix of the estate when one is in fact appointed. I have no information, as of this writing as to whether anyone has been appointed in such a capacity, but I am still inquiring. Once that is effected that case can proceed against the estate and hopefully any malpractice insurance that the defendant had would come into play. Accordingly, I would mark the case off of the current calendar until I can obtain the necessary estate information to amend and serve the complaint accordingly, or in the alternative, dismiss this action, without prejudice.

Please advise accordingly.

Respectfully yours,


 Gregory Kuczinski (3191)

*The action is dismissed without prejudice and
 without costs
 April 2, 2008
 So ORDERED
 Charles Brieant
 U.S.D.C.*

08 Civ 448 (CIB)